

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

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UNITED STATES OF AMERICA

v.

XU WANG

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CASE NO: 5:24-CR-034-Z-BV-2

**REPORT AND RECOMMENDATION ON PLEA
BEFORE THE UNITED STATES MAGISTRATE JUDGE**

The defendant, by consent and under the authority of *United States v. Dees*, 125 F.3d 261 (5th Cir. 1997), appeared with counsel for the purpose of entering a plea of guilty under **Rule 11(c)(1)(C)** of the Federal Rules of Criminal Procedure. This Report and Recommendation is submitted to the Court under 28 U.S.C. § 636(b)(3).

The defendant was placed under oath and examined in open court concerning the subjects of Rule 11 of the Federal Rules of Criminal Procedure. The defendant was advised regarding each subject and affirmed his/her understanding of each subject. Pursuant to a written plea agreement with the government, the defendant pled guilty **under Rule 11(c)(1)(C)** to Count One of the Superseding Information, charging a violation of 18 U.S.C. § 4—Misprision of a Felony.

After examining the defendant under oath, I find that:

1. The defendant, upon advice of counsel, consented orally and in writing to enter this guilty plea before a magistrate judge subject to final approval and sentencing by the presiding district judge;
2. The defendant fully understands the nature of the charges, including each essential element of the offense(s) charged, and the associated penalties;

3. The defendant fully understands the terms of the plea agreement and plea agreement supplement;
4. The defendant understands all his/her constitutional and statutory rights and wishes to waive these rights, including the right to a trial by jury and the right to appear before a United States district judge;
5. The defendant's plea is made freely and voluntarily;
6. The defendant is competent to enter this plea of guilty; and
7. There is a factual basis to support this plea.

Based on the foregoing, I conclude that the plea of guilty is knowing, voluntary, and supported by an independent basis in fact containing each of the essential elements of the offense. **Because the plea agreement in this case contains a binding sentencing recommendation under Fed. R. Crim. P. 11(c)(1)(C), I recommend that the Court tentatively accept the plea of guilty, reserving final decision on whether to accept the plea agreement until after the presentence report is completed. If, after reviewing the presentence report, the Court is satisfied that the ends of justice are served by accepting the guilty plea, and in particular, accepting the binding sentencing provisions of the plea agreement, then I recommend that the defendant's plea of guilty be accepted, he/she be adjudged guilty, and that he/she be sentenced accordingly. Should the Court determine that the ends of justice are not adequately served by the defendant's plea of guilty, then I recommend that the Court offer the defendant an opportunity to withdraw his/her guilty plea.**

Although I have conducted these proceedings and made findings, the United States district judge has the power to review my actions and possesses final decision-making

authority in this proceeding. Thus, if the defendant has any objections to these findings or any other action of the undersigned, he is required to make those known to the United States district judge within fourteen (14) days of today.

Signed: November 18, 2024.



AMANDA 'AMY' R. BURCH
UNITED STATES MAGISTRATE JUDGE